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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,398	09/28/2000	Warren E. Langdon	1724 (USW 0605 PUS)	8268

22193 7590 09/17/2003

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[REDACTED] EXAMINER

LAZARO, DAVID R

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2155

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DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/672,398	LANGDON, WARREN E.
	<b>Examiner</b>	<b>Art Unit</b>
	David Lazaro	2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 September 2000.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 September 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1 . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

Claims 1-20 are pending in this office action.

***Claim Objections***

1. Claims 1 and 7 are objected to because of the following informalities:

Each instance of "player" should instead read "portable wireless music player".

Appropriate correction is required.

2. Claim 9 is objected to because of the following informalities: Each instance of "player" should instead read "portable wireless player". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 15, 16 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Eyal, U.S. Patent 6,389,467.

5. With respect to Claim 1, Eyal teaches a method of providing programming to a portable wireless music player (Col. 1 lines 58-62) having a memory and being operative to transmit and receive information over a wireless link to a wireless service network (Col. 10 lines 46-63), the wireless service network being in communication with a music service provider wherein the music service provider allows connections from remote clients (Col. 10 lines 33-45), the method comprising connecting to the music service provider from a remote client (Col. 10 lines 19-23), defining a play list at the music service provider through user interaction at the remote client (Col. 31 lines 61-64), connecting to the music service provider with the player (Col. 13 lines 58-64) over the wireless service network (Col. 10 lines 34-38), downloading music to the player from the music service provider in accordance with the previously defined play list (Col. 32 lines 17-19), and playing the music at the player (Col. 32 lines 5-11).

6. It must be noted that in the method taught by Eyal, a user can first access the music service provider through a remote client such as a PC (Col. 13 line 50) define the playlist (Col. 31 lines 61-64) and subsequently access that playlist (Col. 32 lines 17-19) using a portable wireless music player (Col. 13 lines 46-47).

7. With respect to Claim 2, Eyal teaches all the limitations of Claim 1 and further teaches the music service provider is connected to the Internet, and connecting to the music service provider from the remote client further comprises connecting over the Internet (Col. 10 lines 33-34).

8. With respect to Claim 3, Eyal teaches all the limitations of Claim 1 and further teaches the wireless service network includes a packet network (Col. 10 lines 33-41).

9. With respect to Claim 4, Eyal teaches all the limitations of Claim 1 and further teaches the wireless service network includes a virtual local area network (Col. 10 lines 33-41).

10. With respect to Claim 5, Eyal teaches all the limitations of Claim 1 and further teaches the wireless service network includes a last leg, and wherein the last leg is in accordance with Internet Protocol (Col. 10 lines 38-41).

11. With respect to Claim 15, Eyal teaches a portable wireless player for use in playing programming received over a wireless link to a wireless service network, the wireless service network being in communication with a service provider that allows connections from remote clients wherein a remote client connects to the service provider and defines a play list at the service provider through user interaction at the remote client, the portable wireless player comprising a housing, a processor disposed in the housing (Col. 10 lines 49-51), a memory disposed in the housing (Col. 10 line 51), a transmitter for transmitting information over the wireless service (Col. 10 lines 53-56), a receiver for receiving information over the wireless service network (Col. 10 lines 53-56), and instructions in memory that direct the processor to connect to the service provider over the wireless service network (Col. 10 lines 19-23), to download programming to the player in accordance with the previously defined play list (Col. 32 lines 17-19), and to play the programming (Col. 10 lines 64-66).

12. With respect to Claim 16, Eyal teaches all the limitations of Claim 15 and further teaches the wireless service network includes a last leg in accordance with Internet protocol (Col 10 lines 33-41), and wherein the instructions further comprise instructions in the memory for connecting to the wireless service network in accordance with Internet protocol (Col. 10 lines 40-38 and Col. 13 lines 47-49).

13. With respect to Claim 20, Eyal teaches a portable wireless music player for use in playing programming (Col. 13 lines 46-49) received over a wireless link to a wireless service network (Col. 10 lines 37-38), the wireless service network being in communication with a music service provider that allows connections from remote clients wherein a remote client connects to the music service provider and defines a play list at the service provider through user interaction at the remote client (Col. 32 lines 17-19), the portable wireless player comprising a housing, a processor disposed in the housing (Col. 10 lines 49-51), a memory disposed in the housing (Col. 10 line 51), a transmitter for transmitting information over the wireless service (Col. 10 lines 53-56), a receiver for receiving information over the wireless service network (Col. 10 lines 53-56), and instructions in memory that direct the processor to connect to the music service provider over the wireless service network (Col. 10 lines 19-23), to download music to the player in accordance with the previously defined play list (Col. 32 lines 17-19), and to play the music (Col 10 lines 64-66), and display for displaying the play list (Col. 10 line 51). It is inherent that the player has a

plurality of control buttons for selecting music to play from the play list on the display (Col 13 lines 46-58).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyal in view of La Porta et al., U.S. Patent 6,434,134 (La Porta).

16. With respect to Claim 6, Eyal teaches all the limitations of Claim 5. Eyal does not explicitly disclose the use of dynamic host configuration protocol (DHCP). La Porta teaches the use of DHCP for resolving address issues (Col. 1 lines 52-62). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method disclosed by Eyal with the use of dynamic host configuration protocol in the last leg of the wireless service network as indicated by La Porta. One would be motivated to have this since dynamic allocation is particularly useful for assigning an address to a host that will be connected to the network only temporarily or for sharing a limited pool of IP addresses (Col. 1 lines 45-48 and Col. 2 lines 33-37 of La Porta). *See also col. 2, line 57-60, La Porta.* *(JWP)*

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17. With respect to Claim 17, Eyal teaches all the limitations of Claim 16. Eyal does not explicitly disclose instructions for connecting the wireless service network in accordance to dynamic host configuration protocol (DHCP). La Porta teaches the use of DHCP for resolving address issues (Col. 1 lines 52-62). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the player disclosed by Eyal with the instructions for connecting to the wireless service network in accordance with dynamic host configuration protocol as indicated by La Porta. One would be motivated to have this since dynamic allocation is particularly useful for assigning an address to a host that will be connected to the network only temporarily or for sharing a limited pool of IP addresses (Col. 1 lines 45-48 and Col. 2 lines 33-37 of La Porta).

18. Claims 7, 8, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyal in view of La Porta as applied to claim 6 above, and further in view of Hulyalkar, U.S. Patent 5,787,080.

19. With respect to Claim 7, Eyal in view of La Porta teaches all the limitations of Claim 6. Eyal does not explicitly disclose the use of a quality of service rating. Hulyalkar teaches the use of quality of service ratings in a wireless network (Col. 3 lines 51-58). It would have been obvious to one of ordinary skill in the art to modify the method disclosed by Eyal wherein the connection between the music service provider and the player, including a portion of the connection over the last leg, includes a quality of service rating as indicated by Hulyalkar. One would be motivated to have this since different data types have

different requirements in terms of network connections. For instance, audio data does not need packet-error reliability as much as it needs to prevent excessive delay (Col. 1 lines 36-44 of Hulyalkar).

20. With respect to Claim 8, Eyal in view of La Porta and in further view of Hulyalkar teaches all the limitations of Claim 7 and further teaches the wireless service network is for providing a plurality of services in addition to connections to the music service provider (Col. 3 lines 51-58 of Hulyalkar), wherein the plurality of services have different quality of service ratings (Col. 3 lines 41-58 of Hulyalkar).

21. With respect to Claim 18, Eyal in view of La Porta teaches all the limitations of Claim 17. Eyal does note explicitly disclose the use of a quality of service rating. Hulyalkar teaches the use of quality of service ratings in a wireless network (Col. 3 lines 51-58). It would have been obvious to one of ordinary skill in the art to modify the player disclosed by Eyal wherein the connection between the music service provider and the player, including a portion of the connection over the last leg, includes a quality of service rating as indicated by Hulyalkar. One would be motivated to have this since different data types have different requirements in terms of network connections. For instance, audio data does not need packet-error reliability as much as it needs to prevent excessive delay (Col. 1 lines 36-44 of Hulyalkar).

22. With respect to Claim 19, Eyal in view of La Porta and in further view of Hulyalkar teaches all the limitations of Claim 18 and further teaches the wireless service network is for providing a plurality of services in addition to connections

to the music service provider (Col. 3 lines 51-58 of Hulyalkar), wherein the plurality of services have different quality of service ratings (Col. 3 lines 51-58 of Hulyalkar).

23. Claims 9-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Eyal in view of Hulyalkar.

24. With respect to Claim 9, Eyal teaches a method of providing programming to a portable wireless player (Col. 1 lines 58-62) having a memory and being operative to transmit and receive information over a wireless link to a wireless service network (Col. 10 lines 46-63), the wireless service network being in communication with a music service provider wherein the music service provider allows connections from remote clients (Col. 10 lines 33-45), the method comprising connecting to the service provider from a remote client (Col. 10 lines 19-23), defining a play list at the service provider through user interaction at the remote client (Col. 31 lines 61-64), connecting to the service provider with the player (Col. 13 lines 58-64) over the wireless service network (Col. 10 lines 34-38), downloading programming to the player from the service provider in accordance with the previously defined play list (Col. 32 lines 17-19, and playing the programming at the player (Col. 32 lines 5-11). Eyal does note explicitly disclose the wireless service network providing a plurality of services in addition to connections to the service provider, each having a different quality of service rating. Hulyalkar teaches the use of quality of service ratings in a wireless service network that provides a plurality of services (Col. 3 lines 51-58). It would

have been obvious to one of ordinary skill in the art to modify the method disclosed by Eyal wherein the connection between the service provider and the player provides a plurality of services having different quality of service ratings as indicated by Hulyalkar. One would be motivated to have this since different data types have different requirements in terms of network connections. For instance, audio data does not need packet-error reliability as much as it needs to prevent excessive delay (Col. 1 lines 36-44 of Hulyalkar).

25. With respect to Claim 10, Eyal in view of Hulyalkar teaches all the limitations of Claim 9 and further teaches the service provider is connected to the Internet, and connecting to the service provider from the remote client further comprises connecting over the Internet (Col. 10 lines 33-34 of Eyal).

26. With respect to Claim 11, Eyal in view of Hulyalkar teaches all the limitations of Claim 9 and further teaches the wireless service network includes a packet network (Col. 10 lines 33-41 of Eyal).

27. With respect to Claim 12, Eyal in view of Hulyalkar teaches all the limitations of Claim 9 and further teaches the wireless service network includes a virtual local area network (Col. 10 lines 33-41 of Eyal).

28. With respect to Claim 13, Eyal in view of Hulyalkar teaches all the limitations of Claim 9 and further teaches the wireless service network includes a last leg, and wherein the last leg is in accordance with Internet Protocol (Col. 10 lines 38-41 of Eyal).

29. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eyal in view of Hulyalkar as applied to claim 13 above, and further in view of La Porta. Eyal in view of Hulyalkar teaches all the limitations of Claim 13. Eyal in view of Hulyalkar does not explicitly disclose the use of dynamic host configuration protocol (DHCP). La Porta teaches the use of DHCP for resolving address issues (Col. 1 lines 52-62). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method disclosed by Eyal in view of Hulyalkar with the use of dynamic host configuration protocol in the last leg of the wireless service network as indicated by La Porta. One would be motivated to have this since dynamic allocation is particularly useful for assigning an address to a host that will be connected to the network only temporarily or for sharing a limited pool of IP addresses (Col. 1 lines 45-48 and Col. 2 lines 33-37 of La Porta).

### ***Conclusion***

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
31. U.S. Patent 6546421, Wynblatt, Michael et al., "System and method for automatic selection of internet data streams" April 8, 2003
32. U.S. Patent 6510210, Baughan, Kevin J, "Communication enabled consumer products and controller" January 21, 2003

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33. U.S. Patent 6496802, van Zoest, Alexander T. et al., "System and method for providing access to electronic works" December 17, 2002
34. U.S. Patent 6480961, Rajasekharan, Ajit V. et al., "Secure streaming of digital audio/visual content" November 12, 2002
35. U.S. Patent 6446080, Van Ryzin, John M. et al., "Method for creating, modifying, and playing a custom playlist, saved as a virtual CD, to be played by a digital audio/visual actuator device" September 3, 2002
36. U.S. Patent 6425018, Kaganas, Israel et al., "Portable music player" July 23, 2002
37. U.S. Patent 6236832, Ito, Seigo, "Music-related information transmitted over mobile telephone network to a requesting user" May 22, 2001
38. U.S. Patent 6055566, Kikinis, Dan, "Customizable media player with online/offline capabilities" April 25, 2000
39. U.S. Patent 5841979, Schulhof, Nathan et al., "Enhanced delivery of audio data" November 24, 1998
40. U.S. Patent 5619425, Funahashi, Yasuhiro et al., "Data transmission system" April 8, 1997
41. Inouye et al., "System support for mobile multimedia applications", IEEE, NOSSDAV'97, May 19-21, 1997, pp. 143-154.
42. Cataldo, Anthony, "Japan allies to use SD card for wireless music network", Electronic Engineering Times, Issue 1098, p.24, January 1, 2000.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is (703) 305-4868. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (703) 308 - 6662. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



David Lazaro  
September 9, 2003



HOSAIN ALAM  
ADVISORY PATENT EXAMINER